

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

ANTHONY BROOKS,

Plaintiff

v.

DIRECTOR - NEVADA DEPARTMENT OF  
CORRECTIONS, *et al.*,

Defendants

Case No. 3:20-cv-00189-JAD-WGC

**Order Dismissing  
and Closing Case**

Plaintiff Anthony Brooks brings this civil-rights lawsuit to redress constitutional violations that he claims he suffered while incarcerated at Ely State Prison. On April 28, 2020, this Court ordered the plaintiff to either pay the \$400 filing fee or file a complete *in forma pauperis* application by May 28, 2020<sup>1</sup>. That deadline expired without an application or payment of the filing fee.

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case.<sup>2</sup> A court may dismiss an action based on a party’s failure to prosecute an action, failure to obey a court order, or failure to comply with local rules.<sup>3</sup> In determining whether to dismiss an action

---

<sup>1</sup> ECF No. 6.

<sup>2</sup> *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986).

<sup>3</sup> See *Ghazali v. Moran*, 46 F.3d 52, 53–54 (9th Cir. 1995) (dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260–61 (9th Cir. 1992) (dismissal for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440–41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for lack of prosecution and failure to comply with local rules).

1 on one of these grounds, the court must consider: (1) the public’s interest in expeditious  
2 resolution of litigation; (2) the court’s need to manage its docket; (3) the risk of prejudice to the  
3 defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the  
4 availability of less drastic alternatives.<sup>4</sup>

5 The first two factors, the public’s interest in expeditiously resolving this litigation and the  
6 court’s interest in managing its docket, weigh in favor of dismissal of the plaintiff’s claims. The  
7 third factor, risk of prejudice to defendants, also weighs in favor of dismissal because a  
8 presumption of injury arises from the occurrence of unreasonable delay in filing a pleading  
9 ordered by the court or prosecuting an action.<sup>5</sup> A court’s warning to a party that its failure to  
10 obey the court’s order will result in dismissal satisfies the fifth factor’s “consideration of  
11 alternatives” requirement,<sup>6</sup> and that warning was given here.<sup>7</sup> The fourth factor—the public  
12 policy favoring disposition of cases on their merits—is greatly outweighed by the factors  
13 favoring dismissal.

14 IT IS THEREFORE ORDERED that **THIS ACTION IS DISMISSED** without prejudice  
15 based on the plaintiff’s failure to file a complete application to proceed *in forma pauperis* or pay  
16 the filing fee as ordered. The Clerk of Court is directed to **ENTER JUDGMENT** accordingly  
17 and **CLOSE THIS CASE. No other documents may be filed in this now-closed case.**

18  
19  
20  
21 <sup>4</sup> *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423–24; *Malone*, 833 F.2d at 130;  
22 *Ferdik*, 963 F.2d at 1260–61; *Ghazali*, 46 F.3d at 53.

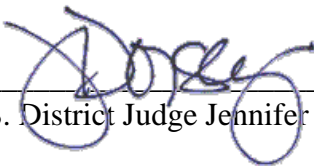
23 <sup>5</sup> See *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976).

<sup>6</sup> *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132–33; *Henderson*, 779 F.2d at 1424.

<sup>7</sup> ECF No. 6.

1 If Anthony Brooks wishes to pursue his claims, he must file a complaint in a new case,  
2 and he must either pay the \$400 filing fee or file a complete *in forma pauperis* application in that  
3 new case.

4 Dated: June 4, 2020

5   
6 U.S. District Judge Jennifer A. Dorsey